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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/620,552	07/16/2003	Bahman Roozrokh	11610-47-DIV	9120
7590 03/23/2005			EXAMINER	
RICHARD K. WARTHER Allen, Dyer, Doppelt, Milbrath & Gilchrist, P.A.			FOURSON III, GEORGE R	
P.O. Box 3791 Orlando, FL 32802-3791			ART UNIT	PAPER NUMBER
			2823	

DATE MAILED: 03/23/2005

Please find below and/or attached an Office communication concerning this application or proceeding.



A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 2 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.  Extensions of time may be available under the provision of 37 CPR 1.736(a). In no event, however, may a reply be timely flied after SX (6) MONTHS from the maining date of this communication.  If NO period for reply is specified above, the maximum stations prior day vehicle the statutory minimum of thinty (20) days will be considered timely.  If NO period for reply is specified above, the maximum stations prior day by the and the interpolation to become ABANDONED (35 U.S. £ 113).  Any roph revised by the Office later than three mental sets for the mailing date of this communication, even if timely flied, may reduce any examined patient term adjustment. See 97 CPR 1.704(b).  Status  1) Responsive to communication(s) filled on		Application No.	Applicant(s)			
Period for Reply	Office Action Summany	10/620,552	ROOZROKH ET AL.			
- The MALING DATE of this communication appears on the cover sheet with the correspondence address = Period for Reply  A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MALING DATE OF THIS COMMUNICATION.  Extension of term pain service in the control of STOR 1.13(b), in so event, however, may a reply be timely filed  Extension of term pain service in the control of STOR 1.13(b), in so event, however, may a reply be timely filed  If the period for reply septified above is less than thirty (80) days, a reply whitin the statetoy entirement of thirty (30) days will be considered timely,  If the period for reply septified above is less than thirty (80) days, a reply whitin the statetoy entirement of thirty (30) days will be considered timely,  If the period reply is specified above is less than thirty (80) days, a reply whitin the statetoy entirement of thirty (30) days will be considered timely,  If the period reply is specified above is less than thirty (80) days, a reply whitin the statetoy entirement of thirty (30) days will be considered timely,  If the period reply is specified above is less than thirty (80) days, a reply whitin the statetoy entirement of thirty (10) days will be considered timely,  If the period reply is specified above is less than thirty (80) days, a reply whitin the statetoy entirement of thirty (10) days will be considered timely,  If the period of the statetoy and the statetoy entirement of thirty (10) days will be considered timely.  If the period of the period the control of the period of the	Office Action Summary	Examiner	Art Unit			
A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MALLING DATE OF THIS COMMUNICATION.  • Sementees of laren may be available used the provisions of 37 CFR 1.135(s). In no event, however, may a reply be timely filled  • If the protect or reply seedled above, the maximum statelory period vid apply and vall expres 510 (8) MONTH'S from the mailing date of this communication. Provisional provisions of the provision of 37 CFR 1.704(b).  • If NO period for reply seedled above, the maximum statelory period vid apply and vall expres 510 (8) MONTH'S from the mailing date of this communication. Any reply secretor by the Office the than there analysis after the mailing date of this communication, even if timely filled, may reduce any search place of the secretor of the Office than there analysis after the mailing date of this communication, even if timely filled, may reduce any search place to the provision of the						
THE MAILING DATE OF THIS COMMUNICATION.  Eatherious of time may be available under the provisions of 3°CFR 1.136g). In no event, however, may a reply be timely filed she EX (6) MONTNIS from the mailing date of this communication, and the extension of the provision of the provis	The MAILING DATE of this communication app Period for Reply	ears on the cover sheet with the c	orrespondence address			
1) Responsive to communication(s) filed on	<ul> <li>THE MAILING DATE OF THIS COMMUNICATION.</li> <li>Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.</li> <li>If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.</li> <li>If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.</li> <li>Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any</li> </ul>					
2a) This action is FINAL.  2b) This action is non-final.  3   Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under Ex parte Quayle, 1935 C.D. 11, 453 O.G. 213.  Disposition of Claims  4   Claim(s) 1-31 is/are pending in the application. 4a) Of the above claim(s) is/are withdrawn from consideration.  5   Claim(s) is/are allowed. 6   Claim(s) is/are objected to. 8   Claim(s) are subject to restriction and/or election requirement.  Application Papers  9   The specification is objected to by the Examiner. 10   The drawing(s) filed on is/are: a) accepted or b) objected to by the Examiner. Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a). Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d). 11   The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.  Priority under 35 U.S.C. § 119  12   Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f). a)   All b)   Some * c)   None of: 1   Certified copies of the priority documents have been received. 2   Certified copies of the priority documents have been received in Application No 3   Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  * See the attached detailed Office action for a list of the certified copies not received.  Altachment(s) 1)   Notice of Praftsperson's Patent Drawing Review (PTO-948) and international Disclayure Statement(s) (PTO-143) Paper No(s)/Mail Date: 5   Online of International Patent Application (PTO-152) of Other:	Status					
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	3) Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)	5) Notice of Informal P				

Application/Control Number: 10/620,552

Art Unit: 2823

The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. See *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970);and, *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 CFR 1.130(b).

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

Claims 1-31 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-21 of U.S. Patent No. 6642078. Although the conflicting claims are not identical, they are not patentably distinct from each other because the instant claims are generic to the patented claims identified above.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to George Fourson whose telephone number is (571) 272-1860. The examiner can normally be reached on Monday through Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Olik Chaudhuri, can be reached on (571) 272-1855. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

George /Fourson Primary Examiner Art Unit 2823

GFourson March 17, 2005